

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

HENRY BROCH & COMPANY,	)	
	)	
Plaintiff,	)	
vs.	)	18 CV 4826
	)	
SHANGHAI PECENP INTERNATIONAL	)	
CO., LTD.,	)	
	)	
Defendant.	)	

**AMENDED MOTION FOR DEFAULT JUDGMENT AND PROVE-UP OF DAMAGES**

NOW COMES the Plaintiff, HENRY BROCH & COMPANY (“HBC”), by and through its attorneys, WIEDNER & McAULIFFE, LTD., and pursuant to Rule 55 of the Federal Rules of Civil Procedure, hereby moves for the entry of default judgment and prove-up of damages against Defendant SHANGHAI PECENP INTERNATIONAL CO., LTD. (“Shanghai Pecenp”), and in support thereof, states as follows:

1. On July 13, 2018, HBC filed its four-count Complaint against Defendant Shanghai Pecenp. (Doc. 1).
2. On July 16, 2018, Defendant Shanghai Pecenp was served with process with the Complaint and Summons. (Doc. 7).
3. Pursuant to Rule 12 of the Federal Rules of Civil Procedure, Defendant Shanghai Pecenp’s Answer to the Complaint was due within 21 days of service of the Complaint and Summons, or August 6, 2018. Fed. R. Civ. P. 12.
4. On August 9, 2018, Defendant Shanghai Pecenp failed to appear before the District Court for the initial status hearing and the District Court ordered HBC to appear with a Motion for Default and an Affidavit for Prove-Up on August 30, 2018. (Doc. 9).

5. Plaintiff HBC filed its original Motion for Default Judgment on August 24, 2018. (Doc. 10), but was granted leave to file an Amended Motion for Default Judgment during the August 30, 2018 court appearance.

6. Rule 55 of the Federal Rules of Civil Procedure provides that the Court may enter default judgment when a party against whom a judgment is sought has failed to timely plead or otherwise defend. Fed. R. Civ. P. 55.

7. As of the date of this Motion, Defendant Shanghai Pecenp has not appeared, answered or otherwise responded to the Complaint.

8. Additionally, attached hereto is the Affidavit of HBC President Greg Antonetti as proof the damages sustained by HBC. (Ex. A). Due to Defendant Shanghai Pecenp's negligence in manufacturing approximately 15,004 pounds of jalapeno powder purchased by HBC, and Defendant Shanghai Pecenp's fraudulent misrepresentations and warranties to HBC that the powder was manufactured and tested in conformance with industry-standards, the powder was contaminated with salmonella and shipped to HBC's Gurnee, Illinois facility where it was re-distributed to HBC's buyers, Phoenix Food Company ("Phoenix") and International Flavor and Fragrances ("IFF"), and placed into the stream of commerce. After the discovery of the salmonella contamination, and pursuant to the U.S. Food and Drug Administration's recommendation, HBC initiated a nationwide product recall for the powder and through its insurers, paid \$9,800,000.00 to IFF and \$64,112.54 to Phoenix for their respective losses arising out of the recall.

9. Therefore, as Defendant Shanghai Pecenp's conduct was the sole cause of the recall and losses paid by HBC, a judgment should be entered in favor of HBC and against Defendant Shanghai Pecenp in the amount of \$9,864,112.54.

10. Further, HBC requests that costs be awarded in the amount of \$1,644.50. (Affidavit of Rachel S. Nevarez, attached as Exhibit B).

11. HBC incurred a cost of \$400.00 for filing the complaint against Shanghai Pecenp. (Invoice for filing fee, attached as Exhibit C).

12. HBC incurred a cost of \$590.00 as a registration fee for a trade show in Chicago where Shanghai Pecenp's president was physically located to allow HBC's process server access to effectuate service on a corporate officer of the Defendant. (Invoice for trade show, attached as Exhibit D).

13. HBC also incurred a cost of \$654.50 to hire a process server to obtain service on Shanghai Pecenp. (Invoice for Robert G. Hanrahan Investigations, attached as Exhibit E).

14. With costs, the total amount of the judgment to be entered against Shanghai Pecenp is \$9,865,757.04.

WHEREFORE, Plaintiff Henry Broch & Company respectfully requests this Honorable Court enter a default judgment against Defendant Shanghai Pecenp, and provide all other relief as this Court deems necessary and just.

Respectfully submitted,

WIEDNER & McAULIFFE, LTD.,

s/Richard J. Leamy, Jr.  
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